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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,528	03/29/2004	Walter Forrest Frantz	BO1 - 0017US	1916
60483	7590	01/02/2007		
LEE & HAYES, PLLC 421 W. RIVERSIDE AVE. SUITE 500 SPOKANE, WA 99201			EXAMINER KING, ANITA M	
			ART UNIT 3632	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		01/02/2007	ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/02/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhpto@leehayes.com

**Office Action Summary**

Application No.

10/811,528

Applicant(s)

FRANTZ ET AL.

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-5,10,13,15-17 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,10,13,15-17 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau. (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

This is the sixth office action for application number 10/811,528, Non-Protruding Seat Track Apparatus and Methods, filed on March 29, 2004.

***Response to Amendment***

The examiner respectfully withdraws the finality of the last Office action in view of newly discovered art to McIntyre et al.

The indicated allowability of claims 2, 3, 14, 15, and 17 is withdrawn in view of the newly discovered reference(s) to McIntyre et al. Rejections based on the newly cited reference(s) follow.

***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: --Non-Protruding Seat Track Apparatus--.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4, 5, 10, 13, 16, 17, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,938,764 to McIntyre et al., hereinafter, McIntyre. McIntyre discloses a payload track (16) comprising: an elongated support including a first channel member (section to the left of element 22) having a first support surface

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(30), a second channel member (section to the right of element 22) approximately parallel to and spaced apart from the first channel member having a second support surface (30) approximately co-planar with the first support surface, the support surfaces being configured to engage directly or indirectly with a lower surface of a floor panel (32); an engagement member (section containing element 22) centrally disposed between the two channel members, wherein a first vertical side of the engagement member is attached to a first adjacent portion of the first channel member and a second vertical side of the engagement member is attached to the second adjacent portion of the second channel member, and the engagement member includes an engagement surface (24) configured to be coupled to the payload assembly; wherein the engagement member and the engagement surface are at least one of flush with and recessed below the lower surface of the floor panel when the support surfaces are engaged with the lower surface; wherein the engagement surface has an engagement slot disposed therein; wherein each of the first and second channel members includes a plurality of longitudinal sides; wherein each of the first and second channel members has a "C"-shaped section; wherein the engagement surface is co-planar with at least one of the lower surface of the floor panel and the support surfaces when the support surfaces are engaged with the lower surface; a payload member (20) having at least one rigid support member (18); and a floor assembly including the at least one floor panel.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over McIntyre in view of U.S. Patent 5,178,346 to Beroth. McIntyre discloses the claimed invention except for the limitation of the engagement slot having a plurality of alternating holes and lands. Beroth teaches a payload track (11) having first and second channel members, an engagement member centrally disposed between the channel members, the engagement member having an engagement slot (12), wherein the engagement slot has a plurality of alternating holes (14) and lands (15), and a fastener apparatus (10) being configured to cooperatively engage a payload assembly. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the slot in McIntyre to have included the plurality of alternating holes and lands as taught by Beroth for the purpose of providing a locking means for attaching the payload assembly to the track in a quick, safe, and secured fashion.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 4,935,527 to Gorges

U.S. Patent 7,051,978 to Reed et al.

U.S. Patent 7,093,797 to Grether et al.

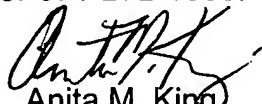
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The above patents all disclose various types of payload track assemblies and/or the method for assembling the track.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Anita M. King  
Primary Examiner  
Art Unit 3632

December 21, 2006